

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DONALD WATKINS, JR.,	:	CIVIL ACTION
	:	
Plaintiff	:	NO. 03-0109
	:	
vs.	:	
	:	
FRANCIS LEONARD,	:	
R. SATTERTHWAITE-GASKINS,	:	
J. LUCAS, and TOM STUCKERT,	:	
	:	
Defendants	:	

MEMORANDUM AND ORDER

JOYNER, J.

June 1, 2005

This is a 42 U.S.C. § 1983 action brought by pro se welfare applicant Donald Watkins, Jr. against Defendants Francis Leonard, Rosalyn Satterthwaite-Gaskins, Jeannette Lucas, and Thomas Stuckert, Pennsylvania employees affiliated with the Jefferson District County Assistance Office. Defendants bring the instant Motion for Summary Judgment, to which Plaintiff has filed no response. For the reasons that follow, Defendants' Motion shall be granted.

Factual Background

On November 12, 2002, Plaintiff Donald Watkins, Jr. submitted an application for welfare benefits, including cash, medical assistance, and food stamps, at the Jefferson District County Assistance Office (CAO). In the Criminal History section of the application, Plaintiff admitted that he had been issued a

summons or warrant to appear as a defendant at a criminal court proceeding, and that he had been convicted of and sentenced for a felony or misdemeanor offense. Plaintiff denied having been convicted of a drug-related felony after August 22, 1996. Upon being questioned further by intake worker Defendant Jeanette Lucas, Plaintiff explained that he had been convicted of Possession With Intent to Deliver (PWID) in 1991. Watkins Deposition, p. 32. Ms. Lucas informed Plaintiff that she would have to check his conviction and criminal record before making a decision with respect to his application. Watkins Deposition, p. 52; Watkins Correspondence, November 12, 2002.

Later that day, Plaintiff wrote a grievance letter to Defendant Francis Leonard, a supervisor, expressing concern about Ms. Lucas' hostility and questioning her reasons for conducting a criminal check. Watkins Correspondence, November 12, 2002. Plaintiff also filed a second grievance, addressing similar issues, on November 18. Watkins Correspondence, November 18, 2002.

On November 13, Ms. Lucas referred the matter to Defendant Thomas Stuckert, requesting verification of whether Plaintiff's PWID occurred after August 22, 1996. Mr. Stuckert accessed Plaintiff's record through the Commonwealth Judicial Information System, and discovered an outstanding bench warrant for possession against Plaintiff. Stuckert Interrogatory Response, ¶

3. He telephoned the Philadelphia Warrant Unit for confirmation, and was told that a bench warrant was issued on June 14, 2001 for a felony drug charge.¹ Id. Mr. Stuckert recorded this information on a form dated November 21, 2002, which Ms. Lucas signed and noted as follows: "No benefits will be authorized until info. from Warrant Division is received." Investigative Findings Report, November 21, 2002. On that same date, Ms. Lucas told Plaintiff that he would need to go to the Philadelphia Warrant Unit to resolve this matter before any assistance would be authorized. Watkins Deposition, p. 58; CIS Case Comment Notes, November 21, 2002.

Plaintiff failed to provide the requested documentation regarding his bench warrant and criminal history, and his application for cash benefits and food stamps was closed on December 3, 2002. Rather than resolving the matter of his criminal history, Plaintiff appealed the denial on December 13, 2002. After a January 29, 2003 hearing, an Administrative Law Judge granted Plaintiff's request for food stamps on procedural grounds, because the Jefferson District CAO had failed to provide Plaintiff with the evidence to be used against him in the hearing. However, Plaintiff's appeal with respect to cash

¹ In fact, the 2001 drug charge was a misdemeanor PWID, rather than a felony PWID. Defendants did not discover that the information given to them by the Philadelphia Warrant Unit was incorrect until Plaintiff verified his criminal history in February of 2003.

benefits was denied as untimely. It was not until February 6, 2003 that Plaintiff finally provided the CAO with official documentation that his conviction for a felony drug charge had occurred prior to August 22, 1996, that the June 14, 2001 PWID charge was classified as a misdemeanor, and that he had recently resolved the matter of the outstanding bench warrant. Watkins Deposition, p. 60, 62. By that time, however, Plaintiff was self-employed and no longer eligible for benefits.²

In his initial November 12, 2002 application, Plaintiff also requested Medical Assistance benefits. Plaintiff submitted a two-month old medical assessment form at his interview, but Ms. Lucas refused to accept the form until his criminal issues were resolved. Watkins Deposition, p. 46, 53. On November 15, Plaintiff received a notice informing him that he needed to provide a medical assessment form verifying his disability, and authorizing 30 days of limited Medical Assistance benefits associated with the assessment of his medical condition. Defendants now admit that Plaintiff submitted a medical assessment form on November 12, but contend that they believed

² In fact, it is questionable whether Plaintiff was ever eligible for benefits, even at the time of his November 12, 2002 application. Plaintiff has admitted that he did not list his wife as a member of the household on his application, that his wife was receiving a steady income at the time, and that his wife had a pending welfare fraud case against her. Watkins Deposition, p. 108-109. Plaintiff acknowledges that including false information on an application for benefits is a form of welfare fraud. Watkins Deposition, p. 109-110.

the form was too old and no longer valid. Leonard Interrogatory Response ¶ 10-11. This issue was resolved on administrative appeal in March of 2003, when an Administrative Law Judge found that the two-month old form was valid, and granted Plaintiff five months of Medical Assistance benefits. Plaintiff was not, however, reimbursed for medical expenses incurred between August and November of 2002.

Plaintiff now brings this 42 U.S.C. § 1983 action, maintaining that the delay in processing his application and subsequent denial of benefits violated Plaintiff's due process, equal protection, and First Amendment rights. Specifically, Plaintiff contends that Defendants retaliated against him for filing grievances against Ms. Lucas, and that there was no legitimate reason for delay or denial of his application.

Summary Judgment Standard

A court may properly grant a motion for summary judgment only where all of the evidence before it demonstrates that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986). A genuine issue of material fact is found to exist where "a reasonable jury could return a verdict for the non-moving party." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). The moving party

bears the initial burden of identifying portions of the record demonstrating the absence of issues of material fact. Celotex, 477 U.S. at 323. The party opposing the motion may not rest upon the bare allegations of the pleadings, but must set forth "specific facts" showing that there is a genuine issue for trial. Fed. R. Civ. P. 56(e); Celotex, 477 U.S. at 324. However, all facts must be viewed and all reasonable inferences must be drawn in favor of the non-moving party. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986).

Where, as here, the non-moving party fails to submit a timely response to a motion for summary judgment, a court may not simply grant the motion as unopposed. Rather, the court must conduct its own determination of whether granting summary judgment is "appropriate" under the standards set forth in Rule 56. See E.D. Pa. R. Civ. P. 7.1(c); Fed. R. Civ. P. 56(e).

Discussion

Even viewing the evidence of record in the light most favorable to Plaintiff, this Court finds that Defendants are entitled to judgment as a matter of law. No reasonable jury could conclude that Defendants' actions with respect to Plaintiff's application for welfare benefits violated Plaintiff's constitutional rights.

I. Equal Protection and Substantive Due Process Claims

Initially, this Court finds that Plaintiff's equal

protection and substantive due process claims must fail as a matter of law. Plaintiff has offered no evidence whatsoever to suggest that he was treated more harshly than other similarly situated applicants, an essential element of any equal protection claim. See, e.g., City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 439 (1985). Plaintiff has also failed to demonstrate that Defendants' actions violated his substantive due process rights. Welfare benefits are not fundamental rights entitled to substantive due process protection. Lavine v. Milne, 424 U.S. 577, 585, n. 9 (1976). Furthermore, a state does not violate due process if it denies benefits to applicants who fail to discharge the burden of proof established by state law. Id.

II. First Amendment Claims

A state may not deny an individual valuable government benefits on the basis that infringes his constitutionally protected interests, such as his freedom of speech. See generally, Rutan v. Republican Party, 497 U.S. 62, 86 (1990). While First Amendment retaliation claims are most commonly raised by public employees who suffer adverse employment actions as a result of their speech, the same general principles may be applied to private citizens who allege retaliatory denial of government benefits. See Rutan, 497 U.S. at 87; Anderson v. Davila, 125 F.3d 148, 160 (3rd Cir. 1997).

To demonstrate that his First Amendment rights were

violated, Plaintiff must show: (1) that he engaged in protected activity; (2) that Defendants responded with retaliatory adverse action; and (3) that the protected activity was the cause of the retaliation. Estate of Smith v. Marasco, 318 F.3d 497, 512 (3rd Cir. 2003) (citing Anderson v. Davila, 125 F.3d at 161). If Plaintiff is able to make such a showing, the burden then shifts to Defendants to establish a legitimate, non-retaliatory reason for the adverse action. Krouse v. American Sterilizer Co., 126 F.3d 494, 500 (3rd Cir. 1997). Only if Plaintiff can show that the proffered reason is false or pretextual will he be entitled to recovery. Id.

Plaintiff contends that Defendants had no legitimate reason for requesting that he verify his criminal history or for denying his applications for cash benefits, food stamps, and medical assistance. Plaintiff maintains that Defendants' conduct was retaliatory in nature, spurred by the two grievances Plaintiff filed against Ms. Lucas. However, because Plaintiff has failed to demonstrate a causal connection between his grievances and the adverse actions taken against him, and because Defendants have established legitimate, non-retaliatory reasons for denial of benefits, Plaintiff's First Amendment claim must fail as a matter of law.

A. Denial of Cash Benefits and Food Stamps

Plaintiff first maintains that Defendants unnecessarily

delayed his applications for food stamps and cash benefits by inquiring as to his criminal history and requiring that Plaintiff provide verification thereof. This claim must fail as a matter of law because Plaintiff cannot demonstrate a causal relationship between his grievances against Ms. Lucas and Defendants' demands for criminal information. During Plaintiff's November 12, 2002 interview at the Jefferson District CAO, Ms. Lucas made it clear that Plaintiff would need to verify his criminal history before his application could be resolved. Plaintiff did not file any grievances until after this interview; indeed, one of the complaints raised in Plaintiff's post-interview letters concerned Ms. Lucas' motives in requesting criminal background information. Given that the "retaliatory action" of delay occurred before Plaintiff engaged in protected speech, there can be no basis for First Amendment relief.

Plaintiff next maintains that his applications for food stamps and cash benefits were ultimately denied as a result of his grievances against Ms. Lucas. Plaintiff filed grievance letters on November 12 and November 18, 2002, and received notice that he was ineligible for benefits on December 3, 2002. While timing alone is generally insufficient to establish retaliatory motive, "unusually suggestive" timing or timing "plus other evidence" may satisfy the burden of proof with respect to causation. Estate of Smith, 318 F.3d at 512-13. Here, Plaintiff

has presented no evidence beyond temporal proximity to suggest that Defendants' motive in denying his benefits was retaliatory.

Furthermore, Defendants have demonstrated legitimate, non-retaliatory reasons both for requesting information regarding Plaintiff's criminal history and for denying him benefits. State and federal law clearly establish that individuals convicted of drug-related felonies after August 22, 1996, fleeing felons, and individuals with probation and parole violations are not eligible for food stamps, medical assistance, or cash benefits. See 7 C.F.R. § 273.11(c)(1), § 273.11(m), and § 273.11(n); 7 U.S.C. 2015(k); 62 P.S. 481.1 (2003); 62 P.S. § 432(9). In applying for welfare benefits, the burden is on the applicant to demonstrate eligibility, and his refusal to cooperate in the application and interview process is grounds for denial. See McCartney v. Commonwealth, Dep't of Public Welfare, 455 A.2d 222, 223 (Pa. Commw. Ct., 1983); Forgash v. Dep't of Pub. Welfare, 629 A.2d 201, 203 (Pa. Commw. Ct., 1993) (citing 7 C.F.R. § 273.2(d)(1)). Thus, Defendants were clearly within their statutory authority in requesting that Plaintiff verify his criminal history before determining his eligibility for benefits. It is equally clear that Plaintiff's subsequent failure to resolve his outstanding bench warrant and verify that he was not convicted of a drug-related felony after August 22, 1996 was a legitimate ground for denial of his application for cash benefits and food stamps.

B. Denial of Medical Assistance Benefits

Plaintiff also contends that Defendants had a retaliatory motive in denying his application for Medical Assistance. Viewed in the light most favorable to Plaintiff, the evidence indicates that Ms. Lucas refused to accept Plaintiff's medical assessment form at his November 12, 2002 interview until his criminal issues were resolved, but was told by Mr. Leonard that the form was valid and that she should accept it. Watkins Deposition, p. 39, 47, 120-122. Indeed, an Administrative Law Judge ultimately found that the two-month old form was valid. Upon receiving the November 15 notice granting him 30 days to submit a medical assessment form, Plaintiff did not re-submit his previous form or complete a new one. Rather, Plaintiff filed an appeal on the basis of his belief that there was a "clear intention ... to delay or deny my benefits." P. 113.

At best, this evidence suggests only that Ms. Lucas made an erroneous decision on November 12, 2002 regarding the validity of his two-month old medical assessment form, and that the outcome of this decision manifested itself on November 15, 2002, three days after Plaintiff filed a grievance against her. Again, Plaintiff has failed to demonstrate that these "adverse decisions" were causally related to his protected speech. Plaintiff did not file any grievances against Ms. Lucas until after she expressed her unwillingness to accept his medical

assessment form. Furthermore, Plaintiff has set forth no specific facts beyond the bare allegations of his pleadings that Ms. Lucas was even aware of his November 12, 2002 grievance (which was mailed to Mr. Leonard) when she issued the November 15, 2002 notice. Because Plaintiff has offered no evidence to suggest that his protected activity was the cause of Defendant Lucas' or any other Defendant's allegedly retaliatory action, Plaintiff's First Amendment claim regarding his medical assistance benefits fails as a matter of law.

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J. LUCAS, and TOM STUCKERT,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 1st day of June, 2005, upon consideration of Defendants' Motion for Summary Judgment (Doc. No. 24), it is hereby ORDERED that the Motion is GRANTED.

IT IS FURTHER ORDERED that JUDGMENT is ENTERED in the above action for Defendants and against Plaintiff.

BY THE COURT:

s/J. Curtis Joyner
J. CURTIS JOYNER, J.